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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,230	01/22/2004	Masami Shirai	P24705	2038
7055	7590	06/19/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			NGUYEN, SANG H	
			ART UNIT	PAPER NUMBER

2877

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/761,230

Applicant(s)

SHIRAI ET AL.

Examiner

Sang Nguyen

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-14, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/407,855.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's response to amendment filed on 03/29/06 has been entered. It is noted that the application contains claims 1-20 (original claims 1-13 and added new claims 14-20) by the amendment 03/29/06.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

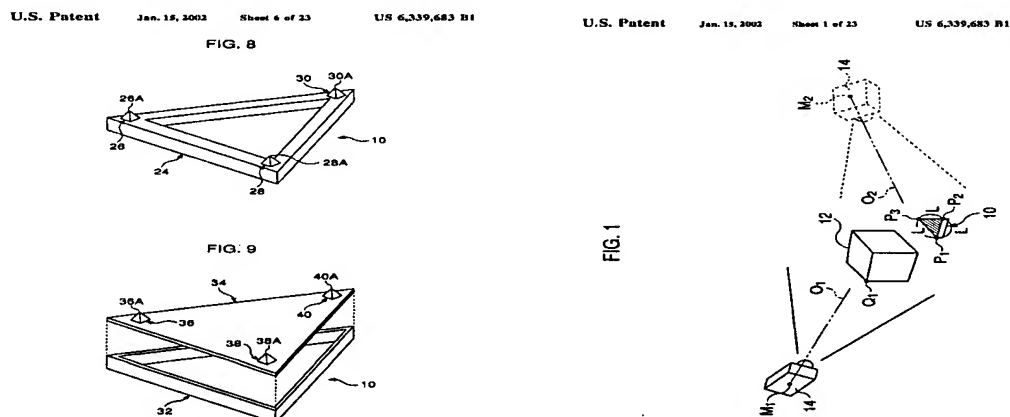
**Claims 1 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakayama et al (U.S. Patent No. 6,108,497 submitted by applicant).**

**Regarding claim 1;** Nakayama et al discloses a target for photogrammetric analytic measurement, said target comprising:

the target (10 of figures 1 and 9) having a first bar considered to be a first equilateral-triangle frame (32 of figure 9) and a second bar considered to be a second equilateral-triangle (34 of figure 9) that are connected to each other (figures 8-9) and configured to be photographed with an object (12 of figure 1) to provide a photogrammetric analytic measurement (14 of figure 1);

at least three standard point members (36A, 38A, 40A of figure 9) that are fixed on a first equilateral-triangle frame (32 of figure 9) and a second equilateral-triangle (34 of figure 9) considered to be the first bar and said second bar, said at least three standard point members (36A, 38A, 40A of figure 9) lying on one plane (figures 8-9); and

non-reflecting members (i.e., projections 36, 38, 40 of figure 9 and col.10 lines 18-20 and col.9 lines 54-55) that are respectively attachable to and removable from said at least three standard point members (36A, 38A, 40A of figure 9). See figures 1-41.



**Regarding claim 18;** Nakayama et al discloses the first and second bars considered to be a first equilateral-triangle frame (32 of figure 9) and a second equilateral-triangle (34 of figure 9) are configured to be positionable in an operative orientation and in an inoperative orientation, the first and second bars considered to be a first equilateral-triangle frame (32 of figure 9) and a second equilateral-triangle (34 of figure 9) being fixedly positioned with respect to each other in the operative orientation. Figures 1 and 8-9

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakayama et al (U.S. Patent No. 6,108,497) in view of Kaneko (U.S. Patent No. 6,144,761 submitted by applicant).**

**Regarding claim 16;** Nakayama et al discloses all of features of claimed invention indicated one of each of said at least three standard point members and each of said non-reflecting members (36, 36A, 38, 38A, 40, 40A of figure 9) as in claim 1. Nakayama et al fail to disclose a ferromagnet material and a magnetic material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine target of Nakayama et al with a ferromagnet material and a magnetic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for intended use as a matter of obvious design choice.

**Regarding claim 17,** Nakayama et al discloses all of features of claimed invention except for at least one angle sensor and a transmitter configured to wireless transmit data output by the at least one angle sensor to receiver. However, Kaneko teaches that it is known in the art to provide photogrammetric analytic measurement

having a camera body (10 of figure 1) provides at least one angle sensor (66, 68 of figure 2) and a transmitter configured to wireless transmit data output by the at least one angle sensor (66, 68 of figure 2) to receiver (figure 2). It would have been obvious to one having ordinary skill in the art the time the invention was made to combine target of Nakayama et al with at least one angle sensor and a transmitter configured to wireless transmit data output by the at least one angle sensor to receiver as taught by Kaneko for the purpose of measuring accuracy angle data with respect to a direction defined by terrestrial magnetism.

***Allowable Subject Matter***

**Claims 2-14 and 19-20 are allowed.**

The prior art of record, taken alone or in combination, fails discloses or render obvious a target comprising all the specific elements with the specific combination including of said at least three standard point members respectively comprise a circular portion, a diameter of which substantially equals a width of said first bar and said second bar in set forth limitation of claim 2.

The prior art of record, taken alone or in combination, fails discloses or render obvious a target comprising all the specific elements with the specific combination including of one end of said first bar is rotatably connected to one end of said second bar, wherein when said target is in an operational position, said first bar and said second bar are fixed such that said first bar and said second bar are perpendicular to each other and when said target is not in the operational position, said first bar and

said second bar are fixed such that said first bar and said second bar are substantially parallel to each other in set forth limitation of claim 11.

**Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

The prior art of record, taken alone or in combination, fails discloses or render obvious a target comprising all the specific elements with the specific combination including of one end of said first bar is rotatably connected to one end of said second bar, wherein when said target is in an operational position, said first bar and said second bar are fixed with respect to each other such that said first bar and said second bar define a predetermined angle with respect to each other; and when said target is not in the operational position, said first bar and said second bar are fixed to each other such that said first bar and said second bar define another predetermined angle with respect to each other in set forth limitation of claim 15.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rueb et al (6036319) discloses laser scanned menu; Corby, Jr. et al (5805289) discloses portable measurement system; Petta et al (5646859) discloses method and apparatus for defying a template for assembly a structure; Ahone (5430662) discloses laser projection system .

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Nguyen whose telephone number is (571) 272-2425. The examiner can normally be reached on 9:30 am to 7:00 pm.

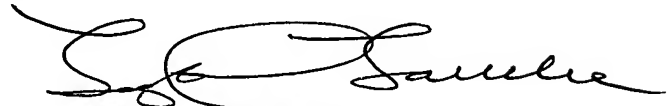
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 8, 2006

Sang Nguyen *SN*  
Patent Examiner

  
**LAYLA G. LAUCHMAN**  
**PRIMARY EXAMINER**